IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.4727 OF 2004
IN
CRIMINAL APPEAL NO.1292 OF 2004

Kashiram Rawaji Mene ...Applicant
Vs.
Maharashtra Government ...Respondent

Ms. Smita R. Gaidhani Adv. for Applicant
Mr. K.V.Saste A.P.P. for the State

CORAM: B.H.MARLAPALLE & ROSHAN DALVI, JJ.
DATED: 18TH JANUARY, 2006

P.C.

1. Heard Ms.Smita R. Gaidhani, the learned Advocate for the Applicant/Petitioner who has been convicted and sentenced by the learned Sessions Judge at Ratnagiri in Sessions Case No.4 of 2003 for an offence punishable under Section 302 of Indian Penal Code by his order dated 2nd May 2003. The said Appeal has been admitted by this Court on 9th January 2006 and therefore, this application for his release on bail by suspending the order of sentence under Section 389 of the Criminal Procedure Code.

2. The learned Advocate submits that the prosecution case of circumstantial evidence has not been proved beyond the reasonable doubts and the chain of circumstances is in fact snapped. She also

submitted that the C.A. reports as well as the Medical Report does not indicate the involvement of the Applicant/Petitioner in causing the death of Supriya, the deceased wife of the Applicant's elder brother, beyond reasonable doubt and therefore, he deserves to be released on bail, more so when he has been already under arrest for about 3 years.

3. We have gone through the evidence of all the six witnesses which also includes the Medical evidence of Dr. Meera Muley - Medical Officer and the C.A. reports received by the Investigating Officer and placed on record in the Sessions Court. The recovery of the clothes changed by the Applicant from his house and in the presence of his mother (P.W.4) has been duly proved as per the learned Sessions Judge.We are therefore satisfied that the evidence so read in totality does not make out a case to suspend the order of sentence in the instant case.

4. The application is therefore rejected. However, the hearing in Criminal Appeal No.1292 of 2004 is hereby expedited. The Applicant is at liberty to file private paper book and if he does so within a period of 12 weeks, he is at liberty to apply for fixing an earlier date of hearing of his Appeal.

(ROSHAN DALVI,J.) (B.H.MARLAPALLE, J.)